

ASSEMBLY BILL

No. 802

Introduced by Assembly Member Blumenfield

February 17, 2011

An act to add and repeal Section 46300.8 of the Education Code, relating to online education.

LEGISLATIVE COUNSEL'S DIGEST

AB 802, as introduced, Blumenfield. Online education: school attendance.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Numerous statutes and regulations govern the calculation and reporting of average daily attendance.

This bill, commencing with the 2013–14 fiscal year, would provide that school districts, county offices of education, and charter schools that offer online education courses may claim attendance toward average daily attendance on the basis of a pupil's attendance in an online course or courses that satisfy prescribed criteria.

The bill would require the Superintendent of Public Instruction, in consultation with the Controller and the Director of Finance, on or before December 31, 2012, to make revisions to any attendance accounting manual or guidance provided to school districts, county offices of education, or charter schools that are necessary to conform to these provisions, or to clarify these provisions with respect to attendance accounting procedures for asynchronous online courses, as defined. The bill additionally would require the Superintendent, in

consultation with the Director of Finance, to adopt rules and regulations for the purposes of clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses and including pupil attendance in asynchronous online education courses in the calculation of average daily attendance.

The bill would make all of these provisions inoperative on July 1, 2017, and repeal them on January 1, 2018.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 46300.8 is added to the Education Code,
2 to read:
3 46300.8. (a) Commencing with the 2013–14 fiscal year, a
4 school district, county office of education, or charter school may
5 claim attendance toward average daily attendance, for the purposes
6 of calculating average daily attendance pursuant to Section 46300,
7 on the basis of a pupil’s attendance in an online course or courses
8 if all of the following apply:
9 (1) The pupil is enrolled in grade 9, 10, 11, or 12.
10 (2) The pupil is enrolled in classes that include courses in a
11 classroom-based setting, courses that are offered through an online
12 program, or both.
13 (3) The pupil meets minimum instructional time requirements
14 pursuant to:
15 (A) Section 46141 and Section 46201, 46201.5, or 46202, as
16 applicable, for pupils enrolled in a noncharter school in a school
17 district or county office of education.
18 (B) Section 46170, for pupils enrolled in a continuation school.
19 (C) Section 46180, for pupils enrolled in an opportunity school.
20 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in
21 a charter school.
22 (4) Each online course in which the pupil is enrolled is a
23 high-quality online course.
24 (b) For the purposes of this section, a “high-quality online
25 course” is defined as an online course that meets all of the
26 following requirements:
27 (1) The online course is approved by the governing body of the
28 local educational agency.

1 (2) The online course is certified to meet these requirements,
2 through board resolution, by the governing body of the local
3 educational agency.

4 (3) The online course is certified by the governing body of the
5 local educational agency as being as rigorous as a classroom-based
6 course and meeting or exceeding all relevant state content
7 standards.

8 (4) Either of the following:

9 (A) The teacher is online at the same time as each pupil, is
10 accessible to each pupil attending the synchronous online course
11 to respond to pupil queries, assign tasks, and dispense information,
12 and is able to make a visual connection with each pupil for the
13 purposes of verifying attendance or providing immediate
14 supervision of the pupil.

15 (B) The teacher may be online at different times than each pupil,
16 is accessible to each pupil attending the asynchronous online course
17 to respond to pupil queries, assign tasks, and dispense information,
18 and, for the purposes of verifying attendance, is able to employ at
19 least one of the following:

20 (i) Periodic proctored examinations.

21 (ii) Direct teacher-pupil meetings no less than twice per calendar
22 month.

23 (iii) A visual connection including, but not limited to, Internet
24 Webcam.

25 (5) (A) The ratio of full-time equivalent certificated teachers
26 teaching the online course to pupils enrolled in that course is
27 greater than or equal to the ratio of teachers to pupils in traditional
28 classroom study of the same subject matter in the school, school
29 district, or the unified school district with the largest average daily
30 attendance of pupils in that county for the prior school year, as
31 reported on the Internet Web site of the department.

32 (B) If the online course is new or deemed by the governing body
33 of the local educational agency to be unique to the online setting,
34 the ratio of full-time equivalent certificated teachers to pupils
35 enrolled in that course shall not exceed 30 to 1.

36 (C) If the online course is new or deemed by the governing body
37 of the local educational agency to be unique to the online setting,
38 the teacher of the online course, at a minimum, shall meet the
39 requirements described in paragraph (7).

1 (6) When a traditional classroom-based course of the same
2 course title exists within the local educational agency, the subject
3 matter content of the online course is the same as for the traditional
4 classroom-based course.

5 (7) The teacher of the online course holds the appropriate subject
6 matter credential and meets the requirements for a highly qualified
7 teacher pursuant to the federal No Child Left Behind Act of 2001
8 (20 U.S.C. Sec. 6301 et seq.).

9 (8) Statewide testing results for online pupils are reported and
10 assigned to the local educational agency in which the pupil is
11 enrolled for regular classroom courses.

12 (9) The online course is offered by a high school, continuation
13 school, county office of education, or charter school.

14 (10) No pupil is assigned to the online course unless the pupil
15 voluntarily elects to participate in the online course and the parent
16 or guardian of the pupil provides written consent before the pupil
17 participates in the online course.

18 (11) No pupil voluntarily electing to participate in the online
19 course is denied access because the pupil lacks the computer
20 hardware or software necessary to participate in the online course.

21 (12) No pupil is charged for his or her participation in the online
22 course.

23 (13) Pupils enrolled in the online course take examinations by
24 proctor or other reliable methods are used to ensure test integrity,
25 and there is a clear record of pupil work, using the same method
26 of documentation and assessment as used in a classroom-based
27 course.

28 (14) Contemporaneous records of the time that a pupil spends
29 online in the course and in related activities, and of the time the
30 teacher is online, are maintained by the local educational agency.

31 (c) A local educational agency offering an online course may
32 contract with another local educational agency to provide an online
33 course meeting all of the requirements specified in subdivisions
34 (a) and (b).

35 (1) A teacher of an online course shall be an employee of the
36 providing local educational agency, and shall meet all of the
37 requirements for a teacher of an online course specified in
38 subdivision (b).

1 (2) For the purposes of subdivision (a) of Section 46300 only,
2 a teacher meeting the requirements of paragraph (1) shall be
3 deemed to be an employee of the offering local educational agency.

4 (3) Contract terms shall be determined by mutual agreement of
5 the local educational agencies.

6 (4) A local educational agency that provides online courses
7 pursuant to the contract shall contract directly with the offering
8 local educational agency, and shall not enter into direct contracts
9 with the pupils of the offering local educational agency or
10 otherwise attempt to enroll those pupils.

11 (d) Nothing in this section shall be interpreted to mean that a
12 charter school provides classroom-based or nonclassroom-based
13 instruction for the purposes of the state board determination made
14 pursuant to Section 47612.5.

15 (e) Attendance accounted for pursuant to subdivision (a) and
16 compliance with the requirements of subdivision (b) are subject
17 to the audit conducted pursuant to Section 41020.

18 (f) A pupil shall not be credited with more than five days of
19 course attendance per calendar week or more than the total number
20 of calendar days that regular classes are maintained by the local
21 educational agency during the fiscal year.

22 (g) The Superintendent, in consultation with the Controller and
23 the Director of Finance, on or before December 31, 2012, shall do
24 all of the following:

25 (1) Make revisions to any attendance accounting manual or
26 guidance provided to a local educational agency that are necessary
27 to conform to this section.

28 (2) Make revisions to any attendance accounting manual or
29 guidance provided to local educational agencies that are necessary
30 to clarify attendance accounting procedures for asynchronous
31 online courses.

32 (3) Make recommendations to the appropriate policy and fiscal
33 committees in both houses of the Legislature and to the Governor
34 regarding statutory changes that would be necessary to allow pupil
35 attendance in asynchronous online courses to be included in the
36 calculation of average daily attendance pursuant to Section 46300.

37 (h) Pupil attendance in asynchronous online courses shall not
38 be included in the calculation of average daily attendance pursuant
39 to Section 46300 until the Superintendent has adopted rules and
40 regulations pursuant to subdivision (l).

(i) For the purposes of calculating average daily attendance pursuant to Section 46300 and meeting the minimum instructional time requirements specified in paragraph (3) of subdivision (a):

(1) A pupil enrolled in a noncharter school and engaged in educational activities in an online course meeting the requirements of subdivisions (a) and (b) shall be deemed to be under the immediate supervision and control of an employee of the district or county office who possesses a valid certification document, registered as required by law.

(2) A pupil enrolled in a charter school and engaged in educational activities in an online course meeting the requirements of subdivisions (a) and (b) shall be deemed to be attending at the schoolsite of the charter school.

(j) For the purposes of calculating average daily attendance pursuant to Section 46300, a local educational agency claiming pupil attendance in an online course meeting the requirements of subdivision (b) shall not be required to meet the requirements of Article 5.5 (commencing with Section 51745) of Chapter 5 of Part 28.

(k) For the purposes of this section, the following definitions apply:

(1) “Asynchronous online course” means a course where the teacher and pupil may be online at different times and are unable to interact simultaneously.

(2) “Local educational agency” means a school district, county office of education, or charter school.

(3) “Synchronous online course” means a course where the teacher and pupil are online at the same time and able to interact at that time.

(l) The Superintendent, in consultation with the Department of Finance, shall adopt rules and regulations, pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), for both of the following purposes:

(1) Clarifying or expanding the procedures required for verifying the identification of pupils participating in asynchronous online courses meeting all of the requirements of subdivisions (a) and (b).

1 (2) Including pupil attendance in asynchronous online courses
2 in the calculation of average daily attendance pursuant to Section
3 46300. The Superintendent shall ensure that the rules and
4 regulations adopted for this purpose are consistent with the
5 revisions and recommendations required pursuant to subdivision
6 (g).

7 (m) This section shall become inoperative on July 1, 2017, and,
8 as of January 1, 2018, is repealed, unless a later enacted statute,
9 that becomes operative on or before January 1, 2018, deletes or
10 extends the dates on which it becomes inoperative and is repealed.